



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,536	07/24/2003	Todd A. Hall	7883.0005-06	8209
22852	7590	03/28/2007	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413.			PHILOGENE, PEDRO	
		ART UNIT	PAPER NUMBER	
		3733		

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/625,536	HALL ET AL.	
Examiner	Art Unit	3733	
	Pedro Philogene		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 December 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 69-125 is/are pending in the application.
4a) Of the above claim(s) 83-95 and 110-119 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 69-82,96-109 and 120-125 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/27/06.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application
6) Other: ____ .

Election/Restrictions

Applicant's election without traverse of Group 1, claims 69-82, 96-109, 120-125 in the reply filed on 12/19/06 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 69-82, 96-109, 120-125 are rejected under 35 U.S.C. 102(e) as being anticipated by Makeover (5,830,222).

With respect to claims 1, 76, Makover discloses a method for supplementing a flow of blood to a portion of the cardiovascular system of a patient, the method comprising: inserting a catheter device, as best seen in FIG.2, into vasculature of the patient and advancing the catheter device to a first location within a first coronary vessel within the cardiovascular system; guiding the catheter device through an interstitial passageway formed between the first location within a second coronary vessel within the cardiovascular system; the second location within the second coronary vessel being distal to an obstruction in the second coronary vessel; and forming a blood flow path from the heart chamber directly to the second coronary vessel; as best seen in FIGs.1-29; and as set forth in column 3, lines 63-67, column 4, lines 1-67, column 5, lines 1-24;

column 9, lines 8-67. Guiding the catheter device through a first interstitial passageway formed between the first location and a second location within a second coronary vessel within the cardiovascular system advancing the catheter device to a third location within the second coronary vessel; guiding the catheter device through a second interstitial passageway formed between the third location and a fourth location within the first coronary vessel; the fourth location being distal to an obstruction in the first coronary vessel; and forming a blood flow path from a heart chamber directly to the first coronary vessel; as best seen in FIG. 12; and as set forth in column 3, lines 63-67, column 4, lines 1-67, column 5, lines 1-24; column 9, lines 8-67.

With respect to claims 70-75, 77-82, the method steps, as set forth, would have been inherently carried out in the operation, as set forth above.

With respect to claims 96, 103, 104, 109, Makover discloses a method for placing a conduit in the wall of a patient's heart, the method comprising steps of providing a support member or guide member (4) and a conduit (93,401) passing the support member and the conduit through a wall of a coronary vessel and through a wall of a patient heart; positioning the conduit within the wall of the heart; and removing the support member from the wall of the heart; as set forth in column 5, lines 50-67, column 6, lines 1-10, lines 50-67, column 7, lines 1-67, column 8, lines 1-67; expanding the conduit ; as best seen in FIG.8, removing the support member and leaving the conduit in the wall of the heart;; as best seen in FIG. 8.

With respect to claims 97-102, 105-108, 120-125, the method steps, as set forth, would have been inherently carried out in the operation, as set forth above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,651,670	11-2003	Rapacki et al.
6,443,158	09-2002	LaFontaine et al.
6,159,225	12-2000	Makover
6,655,386	12-2003	Mekover et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (571) 272-4716. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272 - 4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pedro Philogene
March 06, 2007


Pedro Philogene
PTO/USPTO
Patent Office